

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ERIC FORSYTHE, et al.,)	Civil Action No. 04cv10584 (GAO)
)	
Plaintiff,)	Consolidated Case Nos.:
)	04cv10764 (GAO)
vs.)	04cv11019 (GAO)
)	
SUN LIFE FINANCIAL INC., et al.,)	
)	
Defendants.)	
)	

**PLAINTIFFS' ASSENTED-TO MOTION FOR LEAVE TO
SUBMIT SUPPLEMENTAL AUTHORITY**

Plaintiffs Eric Forsythe ("Forsythe"), Larry R. Eddings ("Eddings") and the City of Chicago Deferred Compensation Plan ("Chicago") (collectively, the "Plaintiffs") respectfully request leave of this Court pursuant to Local Rule 7.1(B)(3) to file supplemental authority further supporting Plaintiffs' opposition to Defendants' Motions to Dismiss. In support of this Motion, Plaintiffs state that since the completion of briefing on this motion several cases relevant to the issues before this Court on the Defendants' pending Motion to Dismiss have been decided and/or have come to Plaintiffs' attention. Plaintiffs seek to submit the following decisions: *In re AllianceBernstein Mutual Fund Excessive Fee Litigation*, No. 04 Civ. 4885, 2005 U.S. Dist. LEXIS 24263 (S.D.N.Y. Oct. 19, 2005) ("Alliance") (attached as Exhibit A); *In re Dreyfus Mutual Funds Fee Litigation*, Master File No. 04-0128 (W.D. Pa. Sept. 30, 2005) (Slip Op.) ("Dreyfus Sept. 28 Slip Op.") (attached as Exhibit B); *In re Mutual Funds Investment Litigation*

(*In re Janus Subtrack*), MDL-1586, No. 04-MD-15863, 2005 U.S. Dist. LEXIS 18083 (D. Md. Aug. 25, 2005)(“Janus MDL Decision”)(attached as Exhibit C)¹; *Jones v. Harris Assocs., L.P.*, No. 04 C 8305, 2005 WL 831301, at *6-7 (N.D. Ill. Apr. 7, 2005)(“*Jones*”) (attached as Exhibit D), and *Strigliabotti v. Franklin Resources, Inc.*, No. C04-00883, 2005 U.S. Dist. LEXIS 9625 at *12-13 (N.D. Cal. Mar. 7, 2005)(“*Stribliabotti*”)(attached as Exhibit E); *In re Davis Selected Mutual Funds Litigation*, 04 Civ. 4186, 2005 U.S. Dist. LEXIS 23203 (S.D.N.Y. Oct. 11, 2005)(“*Davis*”)(attached as Exhibit F); *In re Franklin Mutual Funds Fee Litig.*, No. 04-CV-982, 2005 WL 2175950 (D.N.J., Sept. 09, 2005)(“*Franklin*”)(attached as Exhibit G) and *In re Lord Abbett Mutual Funds Fee Litig.*, 385 F. Supp. 2d 471 (D.N.J. 2005) (“*Lord Abbett*”)(attached as Exhibit H)

Further, Defendants, on October 10, 2005, submitted supplemental authority to this Court and a Memorandum setting forth their position as to that authority’s relevance to this Court’s decision.

Plaintiffs believe submitting the attached authority, along with a memorandum of law which analyzes the authority and responds to Defendants’ submission will complete the record and will aid the Court in its determination of the issues presented.

Finally, Plaintiffs state that Defendants have assented to this request.

¹ Judge Motz issued two opinions on August 25, 2005 in the case of *In re Mutual Funds Investment Litigation (In re Janus Subtrack)*, MDL-1586, Civ. No. 04-MD-15863(D. Md.): one regarding the claims made by an investor class of plaintiffs and one regarding claims made by plaintiffs in a derivative action. Plaintiffs submit only the investor class opinion as supplemental authority here.

WHEREFORE, Plaintiffs respectfully request that the court grant leave for them to file the accompanying Supplemental Authority.

Dated: October 24, 2005

Respectfully submitted,

MOULTON & GANS, P.C.

By: /s/ Nancy Freeman Gans
Nancy Freeman Gans (BBO #184540)
33 Broad Street, Suite 1100
Boston, Massachusetts 02109-4216
(617) 369-7979

**Counsel for Plaintiffs and Proposed Liaison
Counsel**

**MILBERG WEISS BERSHAD
& SCHULMAN LLP**

Jerome M. Congress
Janine L. Pollack
Kim E. Miller
Michael R. Reese
One Pennsylvania Plaza
New York, New York 10119-0165
(212) 594-5300

**Counsel for Plaintiffs and Proposed Co-Lead
Counsel**

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

Alan Schulman
Robert S. Gans
Jerald D. Bien-Willner
12544 High Bluff Drive, Suite 150
San Diego, California 92130
(858) 793-0070

**Counsel for Plaintiffs and Proposed Co-Lead
Counsel**

WEISS & LURIE

Joseph H. Weiss
Richard Acocelli
551 Fifth Avenue, Suite 1600
New York, New York 10176
(212) 682-3025

Counsel for Plaintiffs and Proposed Co-Lead Counsel

LAW OFFICES OF CHARLES J. PIVEN, P.A.

Charles J. Piven
Marshall N. Perkins
The World Trade Center – Baltimore
Suite 2525
401 East Pratt Street
Baltimore, Maryland 21202
(410) 332-0030

STULL, STULL & BRODY

Jules Brody
Aaron Brody
6 East 45th Street
New York, New York 10017
(212) 687-7230

GILMAN AND PASTOR LLP

David Pastor (BBO #391000)
Stonehill Corporate Center
999 Broadway, Suite 500
Saugus, Massachusetts 01906
(781) 231-7850

Additional Plaintiffs' Counsel

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)

I, Nancy Freeman Gans, Esquire, Moulton & Gans, P.C., counsel for the MFS Plaintiffs hereby certify that I have today conferred with Defendants' counsel Matthew A. Stowe, Esq., Wilmer Cutler Pickering Hale and Dorr regarding the within motion. Defendants' counsel assented to the Motion.

/s/ Nancy Freeman Gans
Nancy Freeman Gans

CERTIFICATE OF SERVICE

I, Janine L. Pollack, hereby certify that I served a copy of the foregoing document upon counsel for all parties this 24th day of October, 2005.

/s/ Janine L. Pollack
Janine L. Pollack